

Office of the
Board of Health
City Hall
166 Boulder Drive - Suite 108
Fitchburg, Massachusetts 01420
978-829-1870

An organizational meeting was held on February 1, 2018 at 5:00 pm.

Present: Ian Murray, Chairman; Stephen Curry, Director; Sandra Knipe, R.N.B.S.N., Member; Dr. John Bogdasarian, M.D, Member, Joan Hamlett, Tobacco Control; Amid Patel, Twin City Market; Stephanie Holinko, Food & Milk Inspector; MaryJo Bohart, Economic Development; Scott Cullen, River Styx Brewery.

Meeting Minutes Review & Approval: Sandra Knipe made a motion to approve the January 11, 2018 meeting minutes as amended. Motion was seconded by Dr. Bogdasarian. All were in favor. Motion carries.

Community Development Block Grant (CDBG): Mr. Curry has submitted an application to the Planning Board for CDBG funding. Mr. Curry is requesting \$152,000 from the CDBG Grant. This will cover 2 ½ employees which will fund two 100% CDBG Housing Inspectors and one (.5FTE) Principal Clerk salary.

Ms. Knipe made a motion to support the Community Development Block Grant request. Motion was 2nd by Dr. Bogdasarian. All were in favor. Motion carries.

Hearing: Violation of Restricting the Sale of Tobacco Regulation - Twin City Market, 59 Whalon St. - Amid Patel;

Ms. Hamlett stated that on 12/30/2017, during a citywide youth access compliance check, a 17 yr. old female attempted to buy green game cigars at Twin City Mart. The clerk offered her 2 for \$4.00 or 4 for \$7.00, then asked for an ID. The youth inspector did not have an ID and the clerk denied the sale. The youth inspector reported back the events and it was noted that the youth was offered product below the required minimum price of \$5.00 per package. This triggered this location to be put on an adult inspection list for pricing.

On 1/12/2018, Alexis Hamlett, adult per Diem tobacco inspector entered Twin City Mart at approximately 2:50pm. She asked for Green Game with a \$20 bill. The Adult Male Clerk asked her if she wanted 2 for \$4.00 or 4 for \$7.00. Alexis handed the clerk \$20.00, and the clerk sold her the 4 for \$7.00 products and gave her change of \$13.00 in the form of 1-\$10 bill and 3-\$1 bills. Each package has an orange sticker on them with a price mark as \$5.00

On 1/13/2018, Joan Hamlett, Alliance Director contacted the owner Amid Patel by phone and let him know what occurred and he would be receiving by mail a non-criminal ticket and would be notified of a hearing regarding a permit suspension as the records show that this is his 3rd

offense of the Fitchburg BOH Regulation by violating the cigar pricing section that requires all packages of two or more cigars must be sold at the minimum price of \$5.00.

Ms. Hamlett called Mr. Curry to set up a hearing. According to Fitchburg's regulations this is the 3rd violation in a 12 month period.

Previous Violations:

March 2017, Warning in lieu of fine, for flavor violation,

April 27, 2017, a \$100 and \$200 ticket and 7 day permit suspension was issued for selling prohibited blunt wraps for one violation and selling a flavored product for a 2nd violation.

At a hearing on June 1, 2017, regarding the April 27 violations the Board decided:

Tobacco and Nicotine Delivery Hearing: Mr. Patel is present per request of the BOH. Ms. Hamlett stated on April 27, 2017 (Citation #6900) was issued. The Fitchburg BOH Tobacco Regulations Section G. Sale of Flavored Tobacco Products Prohibited: No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.

On April 27, 2017 (Citation #6901) was issued. The Fitchburg BOH Tobacco Regulations Section H. Prohibition of the Sale of Blunt Wraps: No person or entity shall sell or distribute blunt wraps in Fitchburg.

Mr. Patel stated he has stopped selling all the product and it's been removed from the shelves and sent back in its original packaging to the company. Mr. Jack stated Mr. Patel was very cooperative and more than willing to let Mr. Jack inspect his entire store. Mr. Patel paid his violations.

Ms. Hamlett recommends the full 30-day suspension and ask that the BOH re-instate the previous 7-day suspension as decided in the June 1, 2017 hearing giving him a 37 day suspension starting February 23, 2018-March 31, 2018.

Mr. Patel stated he received a letter from the BOH stating he sold cigars to a minor. He stated no one in his store would sell to a minor and he was confused as to why he was being called to a hearing. Ms. Hamlett said he received the wrong letter and called Mr. Patel to explain to him it wasn't selling product to a minor but a sale of products at the wrong price. Mr. Patel said he only had 2 days to prepare for this hearing.

Mr. Patel said no one in his store would sell anything under \$5.00. He doesn't agree that anyone would offer to sell any products for \$4.00. Mr. Patel talked about the pricing of the packaging in his store and that all the products are marked correctly.

Ms. Hamlett stated the product was marked properly at \$5.00 a piece, the violation is because they were offered to a youth at a youth inspection below the required minimum price of \$5.00 per package. On two separate occasions a clerk offered the Tobacco Inspector the Green Game 2 for \$4.00 or 4 for \$7.00. Mr. Patel continued to state no one in his store sold anything under

\$5.00. Dr. Bogdasarian asked Mr. Patel to explain how the Inspector walked out with 4 packs of cigars that should have been \$20.00 with \$13.00 in change.

Ms. Knipe stated the clerk charged the wrong price for the product and told Mr. Patel the products are being labeled correctly, however the clerks are selling the products for the wrong price even though the products are labeled correctly. That is the violation.

Mr. Curry stated at the July hearing Mr. Patel was responsible for the two violations issued on April 27, 2017 and to continue the 7 day tobacco permit suspension for a period of 12 months, until June 1, 2018 if there is another violation in the continued period, the 7 day permit suspension will automatically be re-instated. The continuing of the permit suspension portion of the penalty does not affect the enforcement tolling period of any future violation.

Dr. Bogdasarian made a motion to enforce the full 30 day suspension and re-instate the previous 7-day suspension. Ms. Hamlett recommends the 37 day suspension starting February 23, 2018 – March 31, 2018. Tobacco Control will send a permit suspension letter with the information on what Mr. Patel needs to do to prepare his store. Motion was 2nd by Sandra Knipe. All were in favor. Motion carries.

Private Well Regulations: Tabled until next meeting.

Dog Variance application/procedures review and discussion with Scott Cullen, co-owner of River Styx Brewing located at 166 Boulder Drive Ste. 112:

Mr. Curry stated River Styx opened about year ago. River Styx Brewing has been required to obtain a food permit for limited sale of food such as pretzels and pre-packaged chips, coffee and soft drinks. River Styx Brewing is allowing dogs inside of the customer seating area. Per the State Sanitary Food Code, dogs are not allowed in a facility that holds a food permit.

Stephanie Holinko, Food Inspector, presented a variance proposal to allow dogs at River Styx Brewing to the Board of Health and Scott Cullen, co-owner of River Styx. See Exhibit 1: Variance Proposal Draft for River Styx Brewing. Stephanie Holinko stated she contacted the State Food Protection Program for their opinion regarding the allowance of dogs in a brewery that only serves pretzels and pre-packaged foods. The state stated that they did not find this unreasonable as long as the establishment obtained a Board of Health Variance with specific conditions. Ms. Holinko also stated that she did extensive research on the allowance of dogs in breweries. She found that most breweries throughout New England do not allow dogs inside of the establishments. Dr. Bogdasarian expressed concerns regarding dogs coming into the brewery without vaccinations or dogs coming into the brewery with diseases. Dr. Bogdasarian also questioned how the facility would be cleaned at the end of the day after the dogs have been inside. Mr. Cullen stated they are working on policies and procedures with Stephanie to address these concerns. Ms. Holinko emphasized these concerns are addressed in the variance proposal.

Ms. Holinko emphasized that under this proposed variance, River Styx may not provide table service for any food with the exception of the approved food products which includes pretzels, pre-packaged chips, coffee, and soft drinks. Ms. Holinko brought to the Boards attention that River Styx Brewing has scheduled an event for February 14, 2018. River Styx Brewing sold approximately 40 tickets to this event and will be a sit down five course dinner. The food will be prepared and plated by a locally permitted mobile food truck. The food will be served from

the mobile food truck to the customers in the River Styx seating area by the River Styx Brewing employees. Mr. Cullen stated the brewery will supply all tableware and the food will be served by River Styx Brewing employees from the mobile food truck to the customers inside of River Styx Brewing for this event. Mr. Cullen also stated that there would not be any dogs on the premises the night of the event on Valentine's Day. Sandra Knipe asked how many times a year does the brewery plan on having food events like this one where the brewery staff would provide table service. Mr. Cullen responded by stating only 3 or 4 times a year.

Sandra Knipe made a motion to allow River Styx Brewing staff to serve food from the mobile food truck to the customers seated in River Styx Brewing at the Valentine's Day February 14, 2018 event. The Board emphasized that dogs may not be permitted at this February 14, 2018 event. Motion was 2nd by Dr. Bogdasarian. All were in favor. Motion carries.

Next meeting is scheduled for April 5, 2018 at 5:00 pm.

Sandra Knipe made a motion to adjourn the meeting at 6:45 pm. Motion was seconded by Dr. Bogdasarian. All were in favor. Motion carries.

Meeting adjourned at 6:45 pm.